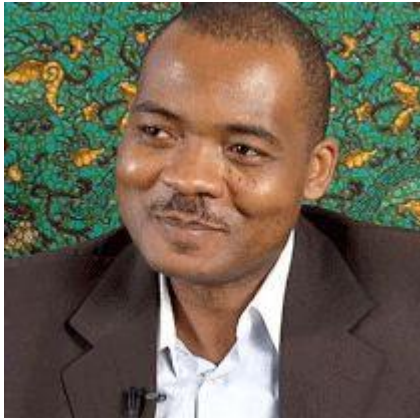




# Voices from the Rwanda Tribunal

## Official Transcript: Jean-Pele Fomete (Full Interview)



<b>Role:</b>	Program Director
<b>Country of Origin:</b>	Cameroon
<b>Interview Date:</b>	24 October 2008
<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Batya Friedman John McKay Robert Utter
<b>Videographer:</b>	Max Andrews
<b>Interpreter:</b>	None

### Interview Summary

Jean-Pele Fomete speaks about his role in court management services, overseeing legal aid and capacity building for pan-African justice systems. He highlights the need for civil society support to make the Tribunal a success, which has been challenging in Rwanda. He also comments on the lack of infrastructure in Africa, and the difficulty in mobilizing resources and ensuring adequate access to information about the Tribunal's work. He discusses the positive and negative impacts of the ICTR and international human rights standards on Rwanda's justice system.

*The transcript of the interview begins on the following page.*

## Part 1

- 00:00 **Batya Friedman: Hello, I'm Batya Friedman. I'm a professor at the University of Washington and it is October 24th, 2008. I'm here conducting an interview. The other interviewers are John McKay from Seattle University and Robert Utter, retired Chief Supreme Court Justice from the State of Washington.**
- 00:22 **BF: Our cameraperson is Max Andrews. And I'm speaking with Jean-Pele. So, Jean, c-, Pele, may I ask you to introduce yourself? Tell us your title here at the ICTR and also your nationality.**
- 00:38 Jean-Pele Fomete is my name, I'm from Cameroon. And at the ICTR I serve as a Program Director coordinating a few cross organizational project and I'm pleased to be with you.
- 00:55 **BF: Good. And so, can you tell us just some of the projects that you're coordinating. So you've done several things here.**
- 01:01 Okay. Currently, first of all, I'm in charge of the Court Management Services of the Tribunal. I also oversee the operations of the Legal Aid program of the Tribunal.
- 01:15 I also run the capacity building program that the tribunal has designed to strengthen the judicial sector of Rwanda. I'm also the chairperson of the tribunal's legacy committee, trying to anticipate on what future generations would remember about the tribunal.
- 01:43 **BF: Good. And c-, could you tell us just a little, what do you do in the, in your role as Court Management? What, what is involved with that?**
- 01:51 Okay. So, we provide support services to the judges and to the parties to the judicial process. And we are – from A to Z, we support the judicial process and if I may take an example, as soon as the Prosecutor is satisfied that he had to compile enough evidence to have an indictment r-, reviewed against somebody, he comes to us with a file.
- 02:22 So we take the file to the duty judge. We assist the judge in organizing the proceedings and if a warrant of arrest is issued, we serve the warrant on the authorities of the country where the accused person is supposed to be.
- 02:37 And we link up with the country, organizing the, the arrest with the support of national authorities and assuming the person is arrested, we organize the transfer of the person to the seat of the tribunal and we continue organizing the proceedings, beginning with the initial appearance so on and so forth.
- 02:59 So, throughout we're supporting the process through various services, organizing the court, you know, making sure translators, interpreters are available, you know, doing the calendaring of the, the proceedings and providing court reporting services.

- 03:23 And we do this at the trial level and at the appellate level, so we support the appeals chamber located at The Hague. And assuming somebody is convicted, we'll be linking up with countries who have signed agreements with the tribunal and facilitate the transfer of the person. And if the person wants to file an application for review of judgment, the person will be coming back to us.
- 03:53 So we're behind the scene, but we're providing the support required for the judges, the prosecutor, defense counsel to be in a position to, to do, to do their job. I-, in a nutshell, that-, that's what we, that's what we do. There are many, many other aspect related to that broad, broad topic, but in a nutshell that's what we do.

## Part 2

- 00:00 **BF: So, I'd like to take you back to the spring of 1994.**
- 00:05 Mm-hmm.
- 00:07 **BF: Where were you and what were you doing at that time?**
- 00:12 I was in Cameroon in Yaounde serving the foreign services of Cameroon and what is quite interesting is that in April of 1994 we were hosting a meeting of the Standing Advisory Committee on security matters in Central Africa.
- 00:31 So I, I was assisting the Minister of Foreign Affairs of Cameroon because that mechanism was part of my folio. So there were representatives of Rwanda in that meeting when everything erupted.
- 00:49 **BF: What was the conversation like?**
- 00:50 **Note: Gap in Interview (Approximately 30 seconds in duration.) Gaps occurred due to interruptions during the interview, technical issues, or corrupted data files.**
- 00:58 **BF: What were the conversations like in that meeting and among yourselves and with the Rwandan representatives?**
- 01:07 You know, the, the meeting was about designing a non-aggression pact. The meeting was about adopting series of measures aimed at building closer relationships between the member state of Central Africa, you know, including exchanges of envoys, you know, closer ties between policies of different countries so on and so forth, long-term action plan aimed at ensuring that the security in the region is fine.
- 01:45 So when we, we heard the news about what was going on, you know, it was towards the end of the, of, of the meeting and to tell you the truth it was not very clear as to what was happening in, in, in Rwanda. So it's, it's later on that we, we got the details about what was going on in Rwanda.

- 02:11 So the, the meeting went on, should I say, normally as I say it was towards the end, so it's later on that we heard about the magnitude of what was the happening in, in Rwanda.
- 02:27 BF: So at this meeting when you first heard that things were going on, were people talking about it or was it just . . .**
- 02:37 Remember those who were representing Rwanda were representing the former government so th-, th-, you, you will expect them to say much about what was, what was going on other than saying "Yeah, there're fightings and the rebels are attacking and you know, we'll need, continue to need support from the international committee, community to fight back," and things like . . .
- 03:08 Th-, there was nothing special. There was not even a statement on, on what was going on. Yeah, just to tell you the, the, the – I later on wrote a papers just saying that we, we failed to do what we were supposed to do in that, in that context.
- 03:27 BF: Mm- hmm.**
- 03:28 Yeah.
- 03:29 BF: And then how did you come to understand that something different was going on in Rwanda? What . . .**
- 03:38 It's, right after when we were in the context of preparing our participation in the next general assembly which was in September 1994 that we're getting everything from our, from the news, from our, our mission in New York.
- 04:01 BF: Mm-hmm. And so then that's how you became aware of the genocide?**
- 04:08 Right after from, from the news we became aware of what, what was going on and what is quite interesting is at the same time in Cameroon in 1994 things were not doing that well.
- 04:22 BF: Mm-hmm.**
- 04:23 From 1992, the Cameroon people was fighting for a more open society, fighting for the shift from the one party political system to a multi-party political system and you could see that different ethnic groups were not speaking the same language and that through the media there were messages of, you could say hatred, you know, and things like that.
- 04:57 So I, I felt worried, I should say, and concerned, and that's why later on when I had the opportunity of joining the International Criminal Tribunal for former Yugoslavia, I did not hesitate.
- 05:17 I left my job in the foreign services and I went because I could see some – when I was reading what was going on in Rwanda, what was being said about the former

Yugoslavia, I could established some, some parallel. Reading, going through some newspapers you could simply replace Hutu by a, another tribe, replace this political party by another one, but the rhetoric seems to be, at least to me, to be the same or comparable.

**05:55 BF: And were you concerned something might also occur in Cameroon?**

05:59 Yes, that's what I was trying to say. I was very, very concerned.

**06:01 BF: Yeah, yeah.**

06:03 Very.

### Part 3

**00:00 BF: Well, before we ask any more specific questions, you've been working well, both at the ICTY in Yugoslavia, the tribunal there and then also for a long time here. Is there anything as you reflect on those experiences that you would just like to share?**

00:20 Yeah. I, while being at the ICTY I, I was in a position to, to have a first-hand experience of something that I feel was missing and still missing, you know, a process here and in, in Africa as a whole. At the ICTY while we were trying to do our job you had the Dayton Peace process going on.

00:47 And at some point the idea of sacrificing justice for a political settlement of the situation in the Balkan came up and it was in the media. And I remember the President of the tribunal receiving thousands of letters, just telling him if he agrees to that that will be the wrong way to go.

01:16 So my – the, the message I got was even for, for justice to be in a position to do its job, you need the support from the people or from the civil societies.

01:28 When we were going through some difficulties here you, you couldn't feel that you had some support from the civil society, be it national or international, because as we, we might, we might exchange on the topic but this tribunal from day one was systematically lambasted, criticized.

01:53 In some cases for the good reasons, but in other cases for very bad reasons. And for something that was nascent you need it, you will e-, you will have expected a kind of support from some stakeholders to say, "Yes, the process in terms of management might be wrong, might not be moving on smoothly but the end goal, which is justice, outweigh those punctual difficulties so we need to support the process so that we move forward."

02:26 I didn't see that. I didn't see it – I didn't see any civil society support of the process. So when I got here we tried to build something like that. One, trying to make sure there's a media presence at the ICTY – at the ICTR – that could send out to the world just facts

about what is going on and leave it to the others to, you know, to, to make their own opinion.

- 02:57 That, that, that was the, the first point. The second one is also I saw a very strong and organized support from, at the European Union to the ICTY. So in 1994, we had only one case, Tadić, and thousands of people, let's say, hundreds of people were, were available researching on the challenges that the court might face, researching on every single aspect of this and that.
- 03:30 In 1995 here, there was no office, there was no staff, but we already had an accused person. So there was no time to structure ourselves as an, as an organization let alone as an international organization dealing with criminal matters with no precedent to rely upon.
- 03:56 So while at The Hague we were so many; we had lots of money from the European Union, young graduates from all universities coming. I remember working with a colleague from, from Ecuador for months, just on one provision of a directive.
- 04:13 So that's the other message. You, you, you need support from external stakeholders. You need support from the civil society to make you probably focus on the reasons why the body was established, but also to help you swim through the difficulties.
- 04:37 So of course in terms of the actual management of the operations there's a lot I, I took from them, you know, and that we, we try to, to, to bring here and including the inter-tribunal cooperation initiative that we were able to launch to ensure that both tribunals could exchange on their experiences and, you know, and show that their job is successful.
- 05:08 BF: So, just to clarify, you were at the ICT-, -TY from what years?**
- 05:13 1995 to end of 1996.
- 05:16 BF: And – so a year or so?**
- 05:18 Yeah.
- 05:19 BF: And then you came here in 1996?**
- 05:20 Yeah, yeah.
- 05:21 BF: And when you were talking about the places where you think the tribunal here should have been supported and then other place-, other aspects that you think were appropriate criticisms . . .**
- 05:32 Mm-hmm.

- 05:33**      **BF: . . . can you say a little bit more about the kinds of things that you think were going on that needed to be supported? And then also talk a little bit about, from your perspective, the criticisms with the idea that for future tribunals we'd probably like to avoid those things.**
- 05:50      Yeah. I think that the, the, the major point, that the, the, the major element that was not available at the time was the support from the UN headquarters and it's documented now.
- 06:10      What happened is in 1994 the UN had just established its own office in charge of oversight services. I, I believe they were looking for – I should say they were looking for another African failure and that's how they, they, they characterize the ICTR at the time.
- 06:32      What happened when the ICTY was established, the UN headquarters sent a team of administrators in The Hague to help put in place the structures and they were at the ICTY for more than a year looking at the environment and help really build the systems.
- 06:56      It didn't happen here – whereas this organization was in a more difficult environment. In terms of media coverage there was nobody here. At The Hague, you had CNN. CNN was there for other purposes. There was a European office already.
- 07:19      So the IC-, covering the ICTY was simply – it was interesting but just an addition to, to something. You had the Dutch media itself. You have the European media present. You didn't have anything here.
- 07:31      So in Arusha at the time, I remember just making a phone call to Kigali where the Office of the Prosecutor was located could take you three days just to go through. Just getting a lawyer from Alaska – at the time we had one from, from Alaska. It was very difficult.
- 07:52      You had only one flight between Europe and Arusha a week, meaning if a counsel misses his flight the proceedings will have to be postponed for, for another week or so. So in terms of infrastructures this place was very poor. We knew nothing about emails and you had to feed the media with what we were producing here.
- 08:22      What I'm saying is this tribunal needed more support in terms of management, in terms of kicking off its operations because it was operating from a poor country than any other body. And I think we didn't get that support and as I said, it's documented by the UN itself.
- 08:47      So we started on the wrong foot and it has taken many years, lots of effort to try and correct. Because any time they write about the tribunal maybe it's the past now, they will say, "Okay, the tribunal has delivered the first judgment on genocide, so they have been trying to convert the genocide convention in something judicial, but as you know they started with blah, blah, blah. There was mismanagement," and so and so.

09:16 It took almost eight years to begin reading something different in the, in the media. I should not sound that negative. It's really the past but it's important to, to, to say that and that's at least how I felt it.

09:35 **BF: Mm-hmm.**

09:35 Yeah.

## Part 4

00:00 **BF: You also mentioned the support of civil society and just to be a little clear on that so your perception for the ICTY in Europe was that in general Europe as a whole supported that tribunal. Is your sense that Africa as a whole – how did it view having the tribunal here? Do you have a sense of that?**

00:27 (\_\_\_), at the ICTY you had all those organizations from the Balkans, they had, they had a vested interest but you also had the, the powerful international NGOs, you know, operating in the area of human rights.

00:47 They were following closely, monitoring what was happening at the ITCY. That level of attention was, was not visible here. That's for the international NGOs. Coming to African civil society structures there were simply none.

01:05 **BF: Mm-hmm.**

01:06 We had to lobby some to come here. We had to build a, a press center to have journalists come here and see. So we lobbied, we, we pushed for, for many organizations to begin paying attention to, to what we were doing here.

01:21 And to date, I can't even tell you. You can give a list of many African organizations really interested in what is happening here apart from victims' organizations in, in, in Rwanda. Yeah.

01:41 **BF: So you've seen al-, also a lot of development of the tribunal in the long time that you've been here. So we've been talking about the early days when there wasn't much infrastructure, not enough support from the UN, maybe not enough support or understanding from the African continent about what the tribunal was.**

02:00 **BF: Have you seen changes in the time that you have been here? And what would those changes be?**

02:09 Yeah, there have been changes, you know. It might be very simple and easier to tell the others what they have not done. But one of the lessons we learned was, you know, we had, ought to do more ourselves in terms of telling the various constituencies what we were doing, the challenges we were facing and, and we began to do that, like making sure we were present at the Organization of African Unity meetings and later on the African Union.



- 02:47 Making sure we are in close contact with the member state at the UN. For example, we ended up creating or pushing for the establishment of informal ad hoc groups that we call the friends of the tribunal. Those are groups of diplomats, you know, monitoring closely our operations, telling us what they feel, we're doing well or less well, and assisting us in getting the resources we need in various fora.
- 03:19 So we have a group of friends in Dar es Salaam. We have a group of friends of the tribunal in, in Kigali. And they report to their capitals but also to their missions at the headquarters. We developed some partnerships with NGOs including one like here on the, they report on the activities of the tribunal from Arusha on a daily basis.
- 03:43 They avoid commenting. They just tell you there were a few trials, these are the issues, and so on and so forth. But it helps people know what is going on at the ICTR on a daily basis. So we, we did that. We tried to mobilize resources to build a press center so that they could, they could have the required facilities to report to the outside world on, on what is going on.
- 04:08 And also, in terms of resources – when the UN became aware that we had been complaining and that we needed more, we, we got almost everything we needed. So it's, it's the past. So we got all the resources. We got to look after witnesses.
- 04:28 We, we had enough resources to recruit the experienced prosecution teams, defense lawyers to re-, compensate, to remunerate their services up to international standards and things like that, because I remember in those days you'd pay a counsel 200 dollars a day for eight hours of work.
- 04:50 It, it, it was not commensurate with the level of expertise that was expected of them so the scale of remuneration is much higher now. It's the same as what is paid to the counsel operating at the ICTY, so on and so forth.
- 05:07 So progressively in terms of financial support we got what was required, I should say so, in terms of having more support in the opinion and things like that.
- 05:26 I think we've made quite some, some progress, but that happened through the, the hard work of the, the judges and making sure there's more media attention but also more attention from the academia.
- 05:44 BF: Mm-hmm.**
- 05:44 And, and we did that also through launching a very aggressive internship program that brought here many, many law students not only from the west but also from, from, from Africa.

## Part 5

- 00:00** BF: So I'm very interested in this relationship you've talked about between the civil society and the ability of a tr-, of a tribunal, any tribunal to function well and to deliver justice.
- 00:13 Mm-hmm.
- 00:14** BF: And I don't want to be putting words in your mouth, but what I think I've heard is that for the tribunal in Yugoslavia it was supported by a broad civil society, not just, you know, Bosnia and that area but Europe as a whole and somehow was seen as a much broader way of justice for the region and I'm wondering if you can talk about what the situation is here for this tribunal.
- 00:41** BF: So there's, you know, civil society one can think about for the Rwandans but one can also think about that in terms of the A-, Africans much more broadly. Is, is there that kind of relationship here? Do people view the tribunal as a vehicle for justice within Africa or – I mean I assume it hasn't been static but you raise a very interesting point and, and you probably have some insights on that.
- 01:14 The, the way I see things as follows – what happened in Rwanda is, was a failure and when you look at the political situation from the '50s up to the, the genocide you had a cycle of, you know, how do I put it? Social failures. You know, people, their aspirations to more openness, you know, more liberties, it was simply not there.
- 01:45 So ethnic clashes, you know, impunity, continuing – it means in terms of the ability of the social fabric to respond to the aspirations, I think things went, went wrong. So, so the genocide is one of the mani-, manifestations of that failure. The worse way of addressing internal problems, because who were the rebels?
- 02:20 Those are the children ( ), of those who were expelled from Rwanda for other reasons. You know, there were negotiations to come out with some political settlement, peaceful settlement. They all failed. So you expect after a genocide that people are dreaming of a better society.
- 02:40 So you will expect some involvement from civil societies, from the people of Africa saying, "What happened in Rwanda might, can happen in our own countries." So we should pay attention to the way Rwanda is coming out of the genocide, we should pay attention to one of the critical component of Rwanda's, with the assistance of the international community, community, of Rwanda's attempt to build a new society.
- 03:15 And the ICTR was one of those element – just contr-, trying to contribute through justice, you know, to the return of peace in the Great Lakes region, but also to the return of peace in Rwanda. So my sense was that, that kind of interest was not felt by us who were here at the ICTR trying to do something. That's my feeling.
- 03:47** BF: And do you think that that makes it more difficult for the tribunal to deliver on justice?

- 03:56 Substantively no, because if you have good judges, good prosecutors, good defense lawyers, you have the witnesses bringing to the attention of the judges whatever they are called here to do so.
- 04:13 In terms of the delivery of, of justice as a public good, I, I'm not sure you, you, you need the support, but producing judgment is just one element. You have to reach out to, to, to the communities in, in Rwanda. Do they understand what you are doing?
- 04:33 Do they feel what you are doing will have any impact on their present and on their future? And that's where I feel there was a, a gap in terms of reaching out to those communities, making sure they feel we're doing something in their interest.
- 04:50 I'm not sure even today we have been able to properly build that connection with the people of Rwanda let alone with other communities in, in Africa. You see what I mean?
- 05:04 BF: Mm-hmm.**
- 05:05 Yeah.
- 05:05 BF: So I guess I'm wondering if the, if the way in which the relationship between justice and reconciliation is the ability of the tribunal to participate in a reconciliation ...**
- 05:18 That, that, that's – it, it, it was an extremely ambitious element of our mandate, that through justice we could contribute to the process of national reconciliation. It's wonderful theoretically, but how do you achieve that as an international tribunal?
- 05:47 And that's why we have also been wondering if, to the tribunal other mechanisms should not have been established, you know, like a truth and reconciliation committee, I don't know. Later on the Gacaca system ca-, came itself.
- 06:09 So we're an international body established outside of Rwanda and supposed to bring justice to the people or Rwanda. I'm saying that connection and our contribution to the national reconciliation is not that obvious.
- 06:27 After the Kambanda judgment – because he pleaded guilty – and we went and tried to listen to a few people in Rwanda. They were saying, "Okay for somebody of that status to recognize that there was a genocide, we as victims somehow feel – not at peace, but that the genocide was recognized by somebody like that sends a message that helps, you know, the healing process."
- 07:02 But more than a decade down the road have we done something in terms of pushing for national reconciliations? There's a lot of questions there.
- 07:16 Because when you look also at the, at the ethnic origins of those who have been tried up to now there's a question, you know – should we because we are supposed to push

for national reconciliation, make sure that all ethnic groups are tried by the tribunal also?

**07:44 BF: So maybe because people in the future may not know what you're saying, can you be explicit about the ethnic groups you're talking about?**

07:52 Yeah. Because the, the, the genocide was against the, the, the Tutsi minority so it's, it's established historically and judicial. But the tribunal is being asked also by its parent body, the Security Council, to ensure that the crimes committed also by the, the former rebel group now in power in Rwanda, be prosecuted also for, for war crimes committed during the, in 1994. But so far all the accused persons we have been able to arrest and bring to Arusha are Hutus.

08:44 So, so should we because we are pushing or because of the objective of national reconciliation try to make sure that there's something like a, a sample of criminals from the two groups, Hutus and Tutsi? It's, it's a question.

## Part 6

**00:00 John McKay: I'm John McKay. I'm a professor at Seattle University Law School. Thank you very much for allowing me to engage in this conversation with you also. I've been listening to, to Batya's questions and your answers and I'd like to follow up on, on some of them and then perhaps my colleague and friend, Bob Utter, will have a few questions for you as well.**

**00:21 JM: And again, thank you very much. I want to go to the question of the eventual wind down of business here at ICTR, and, and get there by asking you the, the question of unfinished business.**

**00:38 JM: Of course, there will be unfinished business here because we're talking about genocide where hundreds of thousands were killed perhaps by hundreds of thousands of people. And who was selected for prosecution at, at the ICTR and who is left to Rwandan and other authorities around the world comes full circle as you wind down because the tribunal will transfer certain cases away. Can you tell us about that process and how you think that will work?**

01:12 In 2003 we were asked by the Security Council to plan the closure of the tribunal and there were few measures to be taken to facilitate that process so the Security Council asked the Prosecutor to focus on medium and high level criminals. That's one.

01:37 Two, he was asked to ensure that lower level accused persons are transferred to national jurisdictions. He was also asked to close his investigations by the end of 2004. So come 2004, the Prosecutor had closed his investigations with regard to genocide.

02:00 But regard to, with regard to war crimes, his investigations are still going on and they relate to the alleged crimes committed by the RPF.

- 02:11 So with regard to the transfer of cases to national jurisdictions, the Prosecutor has been actively engaged in discussions with the entire UN membership to have countries accept to try cases transferred to their jurisdiction. But to date, the outcome was not, has not been quite successful.
- 02:39 So we had an initial acceptance from Norway but for some substantive reasons no case was handed over to Norway. You want me to go into the details of those ones or, yeah?
- 02:54 **JM: Please do. Yeah. I think this is important to understand . . .**
- 02:56 Yeah.
- 02:57 **JM: . . . what the future of the, the prosecutions and accountability process will be for Rwanda.**
- 03:01 Okay, yeah. So, so the Prosecutor was, has not been successful as he had hoped. The only country willing to receive cases from the ICTR is Rwanda. So about European countries first, so Norway was the first country to, to express its willingness to accept accused persons from the ICTR, so there was an application from the Prosecutor for Mr. Bagaragaza to be transferred to Norway.
- 03:37 That application was rejected by the ICTR trial chamber because as per our rule, a trial chamber should decide on the application from the OTP and in deciding so, the applicati-, the trial chamber came to the conclusion that Norway had no jurisdiction, because they had nothing about genocide in, in their, in their, in their law, so it was denied.
- 04:06 Then the next step is an application was filed with the Netherlands. The Netherlands accepted also but its own courts later on came out and say, "We have no jurisdiction either to deal with the, the, the crimes leveled against Mr. Bagaragaza." So the guy is back to Arusha.
- 04:34 But France also accepted to try few, to, to try few of the accused person here and – but they were not transferred from Arusha. Those are people who were residing in, in France and against whom indictment were issued by the tribunal, and an application was made to France.
- 04:55 So France accepted and the trial chambers in Arusha also granted the application from the OTP. So there are two persons that will be tried in France you know, for crimes committed in, in Rwanda.

## Part 7

- 00:00 **JM: It sounds like you're not really optimistic that there can be a significant transfer of individuals who've been indicted here or those who are being currently detained in other countries. Are, are you, are you pessimistic about that?**

- 00:16 I'm, I think it's important that cases to be transferred but so far the level of success has been relative. But in the case of Rwanda, for example, the judges are saying you know, "Rwanda has met some of the standards but not all."
- 00:35 I'm really hopeful that Rwanda will end up meeting those requirements so that cases could be transferred to Rwanda. But more importantly I, I believe many other countries including from Africa should come over and accept to try those cases.
- 00:56 I come back to the point I made earlier. This issue of trying those who were involved in the genocide in Rwanda should be a common cause for many countries but I don't feel that's the way it is perceived. This sense of – it's a strong word but there's a sense of like hypocrisy from member state.
- 01:19 When they go to the UN they say, "Okay, you should transfer and of course we support you." But when you enter into negotiations with them they come up with hundreds of other reasons. "You know, our own docket is full," and so on and so forth.
- 01:36 I can understand but I'm saying some other countries might be in a position to accept if they received the required support, you know, to deal with complex cases. The cases are complex. But I'm not sure we also, as tribunal, have been forthcoming enough to say, for example, "Country A, are you willing just in principle to host these cases?"
- 02:05 Don't talk about your capacity to do so." If the country says, "Yes, politically, I'm willing to do so, but I don't have the resources," then we can move to the next step. Why do I think so?
- 02:18 Because when we were trying to secure the agreement of countries to host our convicted persons, all African countries told us, "We don't have the resources. We can't implement international standard. We can't give a cell to each person. We can't provide them with a balance diet. We can't give them access to medical facilities. Our normal citizens don't have those facilities."
- 02:45 But what did we do? We went out, found money and we helped them to beef up their correctional services and they accepted to host our convict. So I'm saying, if we go to some countries with very serious project, ( ) telling them, "We can train your judges to get acquainted to the, the nitty-gritties of international humanitarian law. We can do ABCD to help you try the cases," I'm of the opinion that maybe we could have been more successful in selling to them the idea of, the idea of accepting this (\_\_\_\_\_).
- 03:26 JM: But your time will be limited at some point. I mean you, you know, the, the, the ICTR will cease to exist.**
- 03:32 Yes.

- 03:33 **JM: And at some point if there are outstanding indictments, even of persons who are residents in another country not being held by international authorities is, has thought been given to the idea that the ICTR would simply dismiss its indictments?**
- 03:49 We, we, we – the thought is that this should not happen because the, the winding down of the ICTR should not equate to the end of the quest for justice and that’s why we should pursue this project of making sure we get the acceptance of countries to try those other people.
- 04:10 Otherwise, what does it mean? It means an accused person with connections like Kabuga, with resources like Kabuga, can simply escape. He knows the tribunal is closing very soon. So with his friends he can make sure he hides and when the tribunal winds down, he’s a free person, but is that what we want? Is that what the international community wants?
- 04:35 The message we’re getting from member state is that that’s not the message. That’s why that there is this idea of establishing a very lean structure after the ICTR and the ICTY closes, a very lean structure that should be in a position to reconvene if required to deal with high-level criminals like Mr. Kabuga.

## Part 8

- 00:00 **JM: Let me, let me focus now on, on, on Rwanda itself and its justice system. Who, who makes the decision as to whether Rwanda is in a position to take those who have been indicted by ICTR?**
- 00:16 As per our rules, the decision is made by a trial chamber. So the Prosecutor makes the application and the judges in a bench of three review the application. And experience has shown that there’s a lot of interest in this transfer.
- 00:33 Many NGOs like Human Rights Watch have been appearing as amicus curiae and advocating for a decision in one direction or the other, but the final decision is taken by the trial chamber.
- 00:51 The decision is appealable and it has been appealed but the appeals chamber upheld the decision of the trial chamber at least in one case that Rwanda was yet to meet all the requirements. So that’s the position at this point.
- 01:13 **JM: What is your, what is y-, I don’t want to really ask you what your feeling is on that decision. Maybe I can ask you a broader question about what your hopes are for the justice sector in Rwanda.**
- 01:26 **JM: How it has been affected or, or either positively or negatively by the existence of ICTR? Is it lifting the justice sector in Rwanda? Is it, is it exacerbating relations? And do you have hopes for improvement of the Rwandan justice sector?**

- 01:45 Yeah, I have a great hope for improvement of the Rwandan justice sector. And I can just take one example. Within a year or so, in its effort to meet the so-called standard to host the cases from the ICTR, Rwanda first of all waived the death penalty for those kind of cases and later on simply outlawed the death penalty in Rwanda.
- 02:21 So for, for a country like Rwanda, coming out of a genocide just a decade after taking such a bold move – I think is a good message. That’s one. Second message, they have been working hard to come out with a really independent judiciary. It will take very long but in terms of structure it’s clear that they want to achieve that goal.
- 02:54 The Minister of Justice has very little to do with the judiciary. If you compare it to countries like Cameroon where the Minister of Justice is in charge of everything appointing judges and you know – it’s a very significant point in the, in the move, in the good direction coming from Rwanda. Of course, the entire system was destroyed by the genocide.
- 03:19 People were killed. People went abroad. So reinvesting in justice is not just a matter of financial resources. It takes time. How do you train lawyers? How do you train judges? And thing ( ), so it takes time. My perception is there is willingness, political willingness to do something but the task is simply overwhelming.
- 03:44 Why am I confident? Just because we have been working together with them in the framework of a joint capacity building program to strengthen their judicial sector. So when you meet with them you, you really feel they want to do something.
- 04:00 And this doesn’t apply only to official authorities. It applies to defense lawyers. They want to do something. They want to forget the past and be, even, they, they want to be showing the way to other countries in the region.
- 04:20 If I give you the example of becoming, you know, going electronic in many areas including the production of real-time court reporting services, you know. That’s the kind of things they want to do and we’re trying to work with them towards that direction.
- 04:40 So I, I might be overly optimistic. The challenges are just huge, daunting, but from going to Rwanda, from speaking with, with the, with the actors, they want to move ahead.

## Part 9

- 00:00 **JM: Yes, I certainly have the impression in speaking to some Rwandan government officials that they recognize that traditional Rwandan courts are not in a position to handle the huge, huge number of people involved and, and you then saw the development of Gacaca.**
- 00:18 Mm-hmm.



- 00:19 **JM: And some will say that they recognized the value of the ICTR but I think people on the street today in, in Rwanda, in Kigali, throughout the country, I don't think I'm overstating this in saying that they, they see the international justice as a country club.**
- 00:39 **JM: That, that, that the worst offenders, the planners, the instigators, the government officials are in beautiful cells from their standpoint. Not that anyone really wants to be there, but they're well fed, they have resources and the people who are the lower level are in crowded prisons without food, they die there. Wha-, what is the legacy really of ICTR for the Rwandan people?**
- 01:07 It, it's not an easy question and I can go back to the, to the point I made earlier concerning enforcement of sentences. Because the people convicted were involved in a genocide do they as prisoners deserve less than other prisoners in terms of their rights?
- 01:40 Do we further punish them or do we take advantage of the international community's involvement in international justice to uplift the standards of prisons? I think that's the way to go and that's what we have been doing with Rwanda also.
- 01:55 We met with them. We told them, "Listen. We understand your situation but this is an opportunity also to, to improve." They refused initially but they ended up understanding and accepting and they started improving some of their facilities. That's one.
- 02:14 Do we provide our accused persons here with less than the standards, you know, adopted in the framework of the UN just to please some quarters? What do we do in terms of standards? Should you make sure they have good lawyers?
- 02:36 They have, they appear before good judges of the ICTR and when they go to the detention center we don't meet the international standards? I have to admit it was a difficult situation but we are left with no other option than, you know, doing what we have done.
- 02:55 Now the problem of the connection between what we are doing here and the street citizen in Rwanda is another issue. How do you reach out to those people? Does international justice sell to those people? How do you make sure the, the, the field is bringing something to their daily life?
- 03:17 It's difficult because at the same time when we go in the field, our investigators go in the field, they go with nice four by four cars, you know, asking for people to appear before the tribunal. People who are struggling to eat, people who are struggling to have access to medical facilities, struggling to go to school so but – those are important elements.
- 03:42 Justice is just the element, but you have other organizations of the United Nations systems involved in trying to uplift the standards of the people in those areas. You have

the government of Rwanda also trying to do that. But as a judicial body we can recognize the situation but at the same time what can we really do?

04:07 I can add one point. When we realized that the structure of the ICTR and the ICTY, does not make provision for the involvement of victims in the process, we brought this to the attention of the UN. No decision was taken but the ICC took over.

04:26 And theoretically, you know, the victims at the ICC have a better role to play, a better place. They are part of the structure. Everything is put in place to make sure that they can, you know, contribute into the system.

04:43 Just to say that, yes, there have been shortcomings in the, in the design of the tribunal. As far as possible the tribunals or other international endeavors have been trying to learn from the weaknesses, the loopholes and things like that. So but what will be the final outcome? We have to wait and see how the ICC does.

## Part 10

00:00 **JM: What it sounds to m-, I know you've given thought, it's apparent in your, in many of your answers today to what the appropriate standards are, if you, if you will – not, not so much international law standards, but where is the bar set for justice?**

00:17 **JM: And you have in your answers talked about how important it is that, that there be an international standard applied wherever possible and if others don't meet that standard perhaps they will be lifted up to it.**

00:30 **JM: Do you have any thoughts about other, other tribunals, other proceedings? And what I have in mind is Guantanamo Bay in, by the United States where the death penalty is allowed, where there are relaxed rules of evidence, where not all important proceedings defendants are allowed lawyers. If you were to go forward and look back on ICTR . . .**

00:56 Mm-hmm.

00:57 **JM: . . . and compare it for example with Guantanamo Bay, has, does one or the other lift or lower the bar in terms of what the standard of justice is for the world?**

01:10 Yeah, speaking about Guantanamo, my understanding of what is going on there might be superficial but, I, I will say from what I know is we've been doing better. I would say we've been doing better in terms of the, the, the rights of the accused, in terms of even publicizing what is going on there.

01:49 The little I know about Guantanamo is, is like is an enclave where special laws you know, exception laws are, are being implemented. But I don't want to venture into that one because my mastery of the, that . . . yeah, yeah.

- 02:11 **JM: Well, let me ask a different way then and, and we can take Guantanamo Bay out of the equation. You've given great thought and have been personally involved in assuring that we have here at ICTR adequate defense counsel to vindicate the rights of, of the accused that the prosecutors are competent and are people of integrity and who will follow the rules.**
- 02:35 **JM: That the judges are outstanding and that, and that they are supported. How will you feel about your role? Your role personally, Jean-Pele Fomete, your role in the administration of justice here at ICTR.**
- 02:53 Lo-, looking back?
- 02:54 **JM: Yeah, I-, well, or how would you like others not to think of you personally but to think of your role? What, what was done in your office?**
- 03:03 Yeah.
- 03:04 **JM: What would you hope they would think of your, your personal efforts?**
- 03:11 Okay. When we began here, defense lawyers, while being part of the judicial process, didn't really feel they were part of the judicial family. I'm sure they still have that feeling that there have been serious attempt, you know, to fill in that gap. It was not easy but we worked hard to that direction.
- 03:36 For example, when the judges sit in plenary sessions to review our rules, the prosecutor is present, the prosecutor can recommend amendments. In the early years, defense lawyers had no say. They could not even be present.
- 03:54 So efforts were made and were part of those effort, you know, trying to make sure lawyers not only feel they are part of – no, to make sure that lawyers, they are making a contribution but make them feel they are part of the process effectively.
- 04:17 So now they can make recommendations for amendments of the rules. They can even be present in the plenary of the judges and defend their case. But when judges are de-, deliberating they are not present but that's something that was achieved.
- 04:33 It's just an example in an area that I feel was not properly addressed. And in my view there's a lot that remains to be done in that area in terms of facilitating the involvement of defense lawyers in the, in the entire process.
- 04:58 From my experience I saw also that some of the criticisms leveled against the, the tribunal have to do with the way we have been operating as an organization. I'm sorry to say that, but the, the tendency was for different organs of the tribunal to operate like in isolation, like the judges saying you know, "We are the judges, we are the only one whose presence is necessary."

- 05:29 You know, “The other ones, what are you doing here? You have been so many, so we don’t have this, we don’t have that.” So it took time to build an ICTR culture where the three principals – the President, the Registrar and the Prosecutor – sit together and think, act as an organization, a judicial body.
- 05:55 So in terms of management of an international criminal justice institution it took us so long. For example, if you bring the typical UN bureaucrat at the ICTR, he doesn’t see the relationship between what he is doing as a finance officer and the end result, which is the provision of justice. It took time.
- 06:22 You have a protected wit-, witness travelling to Arusha. A typical UN officer will ask you for the name of the witness. He wants to see his name on the ticket, he wants to see his name everywhere. But doing that exposes the witness if you’re trying to protect him. So it took time for us to design a system that is accepted by the UN in order to support the judicial system.
- 06:48 I can take another example. The Prosecutor works with informants. You don’t want your informants to be known. They are all over the continent. You know, they can’t give you their names, and so on and so, and our accounting system, the typical one would require that you give the name of the person, and so on and so forth.
- 07:09 So we put in place some systems meeting the UN requirement without jeopardizing the, the, the judicial process. It might be obvious for people coming from national system where everything is structured but remember that we had to deliver while at the same time building an international body without any precedent in terms of management to rely on.
- 07:36 So throughout the years, we try to, to, to make a contribution in, in, in that area. I mentioned earlier also efforts aimed at making sure that the political leaders across the continent and internationally have the ICTR on their agenda. Try to understand what we are all about, how we operate and provide us with the required support but in terms of saying you are doing well. No.
- 08:07 When you know people are watching out, looking at you, scrutinizing carefully what you are doing and trying to see the impact of your activities, it might help you refocus, but I don’t think we have been, we have been getting that also.
- 08:23 Another element is I’m sure we would have achieved better success in terms of transferring cases to Rwanda if from day one we started working on building capacity.
- 08:39 It was an element of the preamble paragraphs of the Resolution 955 but we were so busy trying to exist also that I’m not sure we did that and the consequence is, you know, what is happening. And I think it’s not something personally I think we should be happy of now, so.

## Part 11

- 00:00**     **Robert Utter:** Let me introduce myself for the camera. I'm Robert Utter. I was in the judicial system in Washington State for over 34 years. I served as a trial judge in a lower-level, higher-level Court of Appeals and then on the Supreme Court for 24 years and had been Chief Justice there for a period of time.
- 00:23**     **RU:** I did work in court administration. I was National Chairman of a group called the American Judicature Society; it's a society that's over 100 years old that focuses on court administration and selection of judges.
- 00:36**     Okay, okay.
- 00:38**     **RU:** So when you spoke of what you were doing with court administration it rang many familiar bells in my mind. I ad-, admire what you are doing. I could just simply nod and say yes. I've heard those problems before and we have some of those in the states as well.
- 00:56**     **RU:** It's been my privilege to be part of this group, a number of distinguished colleagues, almost all of whom have introduced themselves at this session, not quite, we have a few in Rwanda now; Judge Don Horowitz and Lisa I believe is there as well.
- 01:14**     Lisa Nathan.
- 01:15**     **RU:** But their regret is that they can't be here to watch you and speak with you as well, so I pass their regrets on.
- 01:24**     Thank you.
- 01:24**     Let me go to some basic questions of justice that I think we need to talk about at first.
- 01:31**     **RU:** The one that strikes me always in these situations is the old axiom, "Justice delayed is justice denied." And would you agree that this is at the heart of what we're trying to do in the justice system?
- 01:46**     Absolutely, absolutely. And I will agree with you because that's one of, that's one of the issues we have been trying to address as well, because the length of detention, you know, pre-trial detention here has generally been long.
- 02:13**     **RU:** Yes.
- 02:14**     And if you add to it the difficulties we've been facing in terms of contemplating the possibility of even issuing provisional releases to accused persons because it has been very, very hard . . .
- 02:33**     **RU:** Of course.
- 02:34**     . . . to arrest them because they have been, they were very organized, scattered all over the world. So when there were even applications for provisional release just looking at

those difficulties to get hold of them and the risk of having them disappearing I think wa-, was so high. That's one.

02:56 But two, in terms of planning the process, putting everything together at the international levels to, to reduce the length of the process to the strict minimum was not easy.

03:11 But towards the, over the past four years there have been significant improvement in, in, in that area you know, aimed at reducing the, the, the duration of the detention and the entire judicial process here at the, at the tribunal. And I think people like Judge Møse, our former President . . .

**03:34 RU: Yes.**

03:35 . . . have made a significant contribution in, in that direction.

**03:41 RU: We had the privilege of interviewing him earlier this week. And reading some of the articles he's written about lessons learned . . .**

03:48 Yeah. Yeah.

**03:49 RU: . . . and I'm sure you've observed and re-, read those as well, but he's a man as are you who's recognized some of the obstacles to achieving justice and the steps taken to correct these.**

**04:02 RU: Another almost conflicting principle that I think is at the basis of achieving justice is the word "impunity" and as we travel through Rwanda and talk to people at the ICTR we heard that stated continually, there should be no impunity for people who have committed offenses.**

04:20 Yeah.

**04:22 RU: Do you see that in conflict with this principle of "Justice delayed is justice denied"?**

04:31 I, I don't see a, a conflict. When you look at the complexities of the operations that we had to, to put in, in, in place here you can understand even if you disagree because when you look at what it takes to bring a witness from Canada to testify in Arusha let alone what it takes to identify that witness. That's one.

05:01 Two, when you look at our judicial capacity itself, initially we had what? Six judges with a heavy workload and then we – to struggle to have additional judges, it takes ages because it's very expensive. So some of the situations that led to lengthy pre-trial and judicial process are things the judicial institution itself had very little control over.

05:37 So that's part of the, the lessons. Meaning if other inter-, international judicial ventures are to be put in place we have to make sure that, you know, we avoid those difficulties because there's a problem also. What can a witness tell you 14 years down the road

about what he actually saw? And when you follow our proceedings you see also something cultural.

06:05 In Rwanda for example, there's, there seem to be very little difference between what you heard a third party telling you and what you actually saw. So somebody will ask me, "Do you know John McKay?" I will say, "I know him," simply meaning we exchange emails or we are living in the same neighborhood but knowing somebody means something else.

06:39 So I'm saying when the process is too long and you factor in the failings of the memory and things like that it might contribute to, like, questioning the, the end results.

06:54 So I'm saying, yes, they have been delayed and normally justice delayed might seem to be justice denied, but in some cases like dealing with the highest crimes like the genocide, dealing with those cases at the international level, taking into account all practical difficulties – it might not be defensible but understandable that we face this situation.

07:26 And if you add to it efforts aimed at limiting, reducing that negative impact we can say the tribunal has been trying its best.

## Part 12

**00:00 RU: We've talked about two things so far. "Justice delayed is justice denied," "No impunity for people who have committed offenses."**

00:07 Of course, yeah.

**00:08 RU: Are there other basic principles that you believe should apply to tribunals that act on crimes of genocide?**

00:16 Yeah, the, the next one will be, "Justice should not only be done but must seem to be done."

**00:23 RU: (\_\_\_) be done, yes, of course.**

00:25 Yeah. And I said earlier if, if we were to s-, begin the tribunal right now I'm sure in terms of letting our constituencies know what we have been doing and making sure there is a connection between what we have been doing and the people of Rwanda and the people of the world at large, I'm sure we'll be doing a better job.

**00:56 RU: So we have three things so far to look at as basic principles. Can you think of any others that might apply?**

01:07 I'm not sure it's a principle as such but it has an impact on all of us – making sure that the cause of justice is supported institutionally, structurally by people equipped to do so.

- 01:31 You have the faces of justice, the judges, but behind those one you have so many other things without which the judges, the prosecutors, the defense lawyers might not do their job properly.
- 01:46 That hidden part of justice is critical and is not ob-, always obvious at the international level to make sure that hidden part of justice, that that hidden part of justice in my view has not – we have learned a lot through this process, but we have to share with others and I, I don't feel we have been doing enough in that area in order to come up with principles for the management of, of international criminal justice.
- 02:25 RU: Perhaps one of those principles you speak of might simply be the providing those who attempt to implement justice the tools they need to achieve that.**
- 02:35 Absolutely.
- 02:36 RU: Both in terms of infrastructure, personnel, training – you can name those issues far better than I can.**
- 02:43 Yeah, absolutely. Absolutely.
- 02:45 RU: The reason I go into that is to make use of your experience at this point and say if you could design the ideal system for an international tribunal, working on your experience here at the ICTR, what would you suggest?**
- 03:06 In terms of structure, I will make sure there's a somehow an oversight body. That's one. Two, we'll make sure all stakeholders involved understand that justice is a business also. Justice run through an organization – you need to apply some management principle.
- 03:45 If there's no vision of what you're doing, if there's no business plan, for example, or . . . there's very little you can expect. You might be surprised, but I'm saying we, as tribunals, ICTR and ICTY, we had no clear business plan.
- 04:05 The only opportunity given to ourself to think as organizations, was in the framework of the budget process. In the framework of the budget process you just say what you need – “I need more judges, I need more courtrooms, I need more cars.”
- 04:23 But in terms of planning, how do we do this? How do we ensure that we add value to the processes we're involved in? It took many years for us to do that. When were we forced to do it, I say forced, is when we were working on our completion strategy.
- 04:44 So we started saying, “Okay, if we have to try 20 people from 2003 to 2008, it means this is the number of court hours we'll spend per case. Is it possible for a single accused case, for multiple accused cases?” Then, you, we did all those basic computations. They seem normal in, but that's not the way the place has been operating – the places, ICTR and ICTY.



- 05:18 So I, maybe I, I'm overly insisting on that support element, it's because when this happened we saw the impact on our ability to deliver.
- 05:29 When it was not happening, when the principals were not speaking the same language, the impact was also clear in terms of delivery of judgment, in terms of the time it takes for a motion to be addressed, in terms of the way you get defense lawyers involved and things like that.
- 05:47 So the management aspect of the international judicial process has something that was not attended to properly. And I believe for future endeavors it's a critical element that should be looked into.
- 06:07 RU: As I listen to you and to my colleague, John McKay, it reminds me of the American idiom – we're talking about "The tail that wags the dog." And if you focus on just budget rather than on planning you're talking about something that is not really a first product, you're talking about end product that should be the result of good planning.**

## Part 13

- 00:00 RU: You've mentioned about the need to – in examining the scope of the job that you have – to consider involving the national court. That strikes me as a very important principle when you look at what happened in this particular instance, with hundreds of thousands of perpetrators who could not possibly be tried by the ICTR.**
- 00:24 Yep.
- 00:25 RU: And yet who if they had to be involved by the ICTR – not as planners but just as perpetrators – would escape completely free unless the country that was involved was involved in their court system as part of the process.**
- 00:41 Absolutely, absolutely.
- 00:44 RU: I understand at least in your re-, response to Mr. McKay that if you were to design a process for the future, you would design one that would take it into consideration the build up of the national court system . . .**
- 00:58 Absolutely.
- 00:58 RU: . . . the ability of them to handle these cases more efficiently.**
- 01:01 Absolutely and also, enlist the support of other countries.
- 01:05 RU: Yes.**
- 01:06 Which, which raises another issue, like the coordination at the international level itself. We had political processes going in parallel to other processes and the bridges between those different element, was not obvious.

- 01:23 You have development agencies in Rwanda but the relationship between what they do and justice nationally and internationally is not clear.
- 01:32 So and when you meet with stakeholders in Rwanda you can feel there's lots of donors' money being poured, but there is no coordination. And so if we had to restart the process also that's something that should be really, really thought through.
- 01:48 RU: How would you do it ideally? Thinking it through, what would you suggest?**
- 01:54 I-, if it has to do with an international body like the ICTR and ICTY, like I said, from day one, we should have invested as much in building capacity o-, of the judiciary in Rwanda as we have been doing in, with the ICTR.
- 02:13 If we started ten years ago, I'm not sure we'll have better judges, but good students we've got now and if it involved like bringing judges from the region or from elsewhere also working together with Rwanda I'm sure we'll have done more.
- 02:28 And if we were doing few things in terms of building better prisons from 1994 when the tribunal was established I'm sure after so many years we'll have gone quite a, a (\_\_\_) here.
- 02:47 RU: And building the prisons in Rwanda rather than in Tanzania perhaps.**
- 02:53 Of course, I focused on Rwanda because we've been dealing mainly with, with Rwanda even if in terms of sharing any expertise we have acquired over the year we are doing so with Rwanda but we're doing the same with, with Tanzania.
- 03:09 RU: I understand that.**
- 03:10 We have a capacity building program with the Chief, the Office of the Chief Justice. We are developing one with Zambia. We've been doing something with South Africa also and, and, and Cameroon. So building these bridges, partnerships, letting people know wh-, what we have been doing, trying to know also what they have been doing could have helped.
- 03:32 We are hosting in November a conference with national prosecutors from countries around the world, you know, to let them know what we are doing and what we might expect of them in the framework of, you know, transferring cases or even after we wind down. If we have been doing this regularly I'm sure we'd have achieved more.
- 03:57 RU: Yes.**
- 03:57 So that th-, we are trying to convert into implementable projects, you know, that some of the major lessons that we have learned over the, over, over the past.
- 04:08 RU: You mentioned oversight, which of course is critical for every project. How would you build oversight into this particular concept of yours?**

04:18 Okay.

**04:18 RU: Who would the people be, what would the body be . . . ?**

04:22 I, I, my comment will be in the framework of the UN system.

**04:25 RU: Of course, of course.**

04:26 In the framework of the UN system. What happens is almost all UN programs have oversight bodies or some legislative bodies will regularly sit down with the, those in charge of those programs, look at their strategies, review their plans, you know, make some inputs before giving money. So there was none with regard to the tribunal.

04:55 What appears to be some is the General Assembly, but the General Assembly of the UN is made of, of closely 200 member state, and the ICTR is just one item on the agenda. They spend few hours . . .

**05:08 RU: Yes.**

05:09 . . . per year dealing with the ICTR. There's no time to deal with the tribunal. The Security Council could have done that. The Council didn't do it, up to 2003, when the completion strategy was adopted. Now the Prosecutor and the President are reporting every six month to the Council on their achievements vis-à-vis the four major objectives of the completion strategy.

05:37 I can tell you this has helped the way the organization operates, because you have to report every six month. What have you done in the area of transfer? What have you done in the area of investigations?

05:50 What have you done in the area of, you know, improving the efficiency of the systems in place? It has changed. So that's why I was mentioning the element of, of, o-, o-, oversight.

**06:02 RU: Oversight.**

06:03 Yeah. So who should sit there? I think it, it, it's a debatable question, but what I've realized is even politicians who initially knew nothing about the tribunal – but because they're reviewing regularly what the tribunal is doing – they have developed some interest on what the tribunal is doing and what they end up telling the judges or the Registrar or the Prosecutor really makes sense to them. Yeah.

**06:38 RU: Yes. That's been very helpful.**

## Part 14

**00:00 RU: You're designing something not just for your problems now, but in this project that we're involved with, we're designing for the future as well.**

- 00:09      Yeah, yeah.
- 00:10      RU: How would you pass on the information that you have accumulated for the future? 40 years, 50 years, 100 years from now.**
- 00:20      Yeah.
- 00:21      RU: Or maybe paper will be a thing of the past. We'll use other ways to record knowledge.**
- 00:28      So what we have been doing in, in anticipation of our winding down, but also in the framework of our effort aimed at reaching out to as many constituencies as possible – because we created our website, but we have a database with the entire judicial records of, of, of the tribunal accessible via the internet also, but that's mainly for the paper record.
- 00:58      We are currently implementing a project that will allow us to digitize roughly 40,000 hours of sound and video of our proceedings. And the idea is once it's digitized we could redact the collection and make it available to, to, to stakeholders.
- 01:24      But again, we have been thinking about the, the internet but that only applies to regions and countries with access to the, to the internet.
- 01:35      So with regard to the African continent and especially Rwanda, we're doing two things, because there's hope that the situation will improve and when you look at Rwanda's strategic plan for 2020 you see that IT and the internet is at the heart of it. But in the meantime, the facilities are not there.
- 01:56      So what we are doing is we, we have an information center in Kigali. We have eight additional information centers in the provinces where the information we have is available in the form of paper, is available in the form of DVDs, videos and things like that, and we are planning to work with other stakeholders like a victims' group, you know, NGOs involved in the area of human rights.
- 02:26      The judiciary itself, you know, to make available everything we have to them. So for the future we have the digital collection. But for areas where we need to rely on other medium to make the information available we are trying to adjust.
- 02:47      RU: Along that line . . .**
- 02:48      Yeah.
- 02:49      RU: There are limits to what the written record or even the video record can provide us. Given these limits, what would you like to tell people who will be looking at this interview 100 years from now that wouldn't be readily apparent in the records of this tribunal that would be helpful to them.**

- 03:10 That's a daunting task to project oneself 100 years into the future. In the course of our work, we've been relying a lot on the, like the proceedings of the Nuremberg trials. So it was wonderful even just to flip through some of those old papers and things like that.
- 03:37 You, you have the feeling, listen – those people who were doing this in the 40s and 50s, did they imagine that we'll be doing what we are doing now? I, I said no, because we're saying – you know, we are doing this but for the future we hope not to face another holocaust or another genocide. But it happened, unfortunately.
- 04:03 And unfortunately it looks like, it looks like it might still happen. So frankly I, I will hope not to project myself into the 100 years to come to tell people, "Use what we have been doing to undergo other trials."
- 04:21 No, I'll just be – my hope is in the years to come when they look at this is simply to say, "How come in, in that century they were still killing each other, they were still creating international tribunals to deal with this?"
- 04:37 But again, if we have to deal with some of those things I will hope those issues are dealt with at the national level. I think we should work hard on building the capacity in, in national jurisdictions to ensure that human rights are respected, that there are avenues available to people to resolve their differences in ways other than resorting to killings.
- 05:06 It might be idealistic, but experience shows that when you're in an environment where people feel free to run their businesses, feel they have avenues, they have recourses to have their differences resolved, conflict are less likely to escalate to the level where we'll have to build mechanisms like the, the ICTR.
- 05:34 So I, I hope when they see this in 100 years it's simply to say, "Oh, those are the last guys who had to deal with these atrocities. That's the antiquity of the international criminal justice, that's the old man," and that by that time the real new man could have manifested itself.
- 05:57 That's my hope for those who would probably see this feature in the 100 years to come.

## Part 15

- 00:00 RU: One last question if I may. How has this whole process affected you personally?**
- 00:09 Significantly. In 1995 at the ICTY, I was working with Judge McDonald, a U.S. judge, Judge Fouad Riad, Judge Jorda, in reviewing the evidence brought by the Prosecutor concerning the Srebrenica massacres. Going through the evidence was simply horrible.
- 00:43 I think for, for months I was not able to, to sleep because you were talking about people using, killing 15 months babies. You know, I could not sustain it.

- 01:04 But at the same time, the, the parallel between what I was reading in the evidence and what was happening in my country at the time as I told you. There were no massacres, but reading in the press you were seeing the message of hatred, you know, being spread over, saying this group is doing this and we'll expel you and . . .
- 01:29 So I, I tried to – so it, it affected me personally. I tried to sustain that and continue working in the, in the chambers but it was difficult. So I ended up, while keeping my interest in being involved in the process, I ended up deciding to shift into other department of the organization where I can help but without being involved on a daily basis on reviewing the evidence itself.
- 02:22 I might have run away from my, from my responsibilities but I think I've continued doing the job, you know, in a different room of the house or in a different compartment of the, of the boat but just to protect also my ability to operate and somehow remain quote unquote "normal."
- 02:55 But I can say going through that one I still have this in my mind and that's why when you asked me to project myself into the future, just looking at those images, I said we should not be going that way again – be it here or elsewhere.
- 03:18 That's personally. But again, now when I'm planning my future I see myself in the area of building capacity for judiciaries on the continent. So it will be like a continuation of what I've learned. You know, the people I've been privy to meet with and the organizations I had the opportunity of, of meeting with.
- 03:45 The leitmotif now is: what can we do for the future, you know, of, of the, of justice on the, on the continent? So it affected me. Personally I tried to adjust but I, I have the stamina, you know, to continue the, the work even after the, the ICTY, the ICTR.
- 04:05 RU: God bless you and thank you.**
- 04:07 Thank you very much.